

<b>USDC SDNY</b> <b>DOCUMENT</b> <b>ELECTRONICALLY FILED</b> <b>DOC #:</b> _____ <b>DATE FILED:</b> <u>4-29-19</u>
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOSE ENCALADA, et al.,

Plaintiffs,

- against -

SENATOR CONSTRUCTION CORP., et al.,

Defendants.  
-----X

18 CV 3727 (ER) (RWL)

**REPORT AND RECOMMENDATION  
TO APPROVE SETTLEMENT**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

**TO EDGARDO RAMOS, United States District Judge.**

This case is an action for damages under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* ("FLSA") and the New York Labor Law. Before the Court is the parties' joint letter request that the Court approve their settlement agreement, a fully executed copy of which was submitted on April 26, 2019. (Dkt. 35.) A federal court is obligated to determine whether settlement of an FLSA case under the court's consideration is fair and reasonable and the subject of an arms-length negotiation, not an employer's overreaching. *See Cheeks v. Freeport Pancake House*, 796 F.3d 199 (2d Cir. 2015).

The Court has carefully reviewed the Settlement Agreement as well as the parties' letter. The Court has taken into account, without limitation, prior proceedings in this action; the attendant risks, burdens, and costs associated with continuing the action; the range of possible recovery; whether the Settlement Agreement is the product of arm's length bargaining between experienced counsel or parties; the amount of attorney's fees; and the possibility of fraud or collusion. Among other attributes of the Settlement Agreement, there are no confidentiality or non-disparagement restrictions; the release is

narrowly tailored to wage and hour claims; and the attorneys' fees are within a fair, reasonable and acceptable range. Considering all the circumstances, the Court finds that the Settlement Agreement is fair and reasonable and should be approved.

Pursuant to 28 U.S.C. § 636(b)(1) and Rules 72, 6(a), and 6(d) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court, with extra copies delivered to the Chambers of the Honorable Edgardo Ramos, United States Courthouse, 40 Foley Square, New York, New York 10007, and to the Chambers of the undersigned, at United States Courthouse, 500 Pearl Street, New York, New York 10007. **Failure to file timely objections will result in a waiver of objections and will preclude appellate review.**

SO ORDERED.



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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: April 29, 2019  
New York, New York

Copies transmitted to all counsel of record.